

REMARKS

Claims 1-8, 14, 17 and 18 are rejected in a final Office Action.

This response seeks to convince the Examiner to remove the rejection, or failing that to place the claims in better form for appeal by reducing the number of issues stemming from the rejection.

Claims 5, 6 and 14 are proposed to be cancelled. Claim 7 and 18 are proposed to be amended to narrow them, in order to place them in better form for appeal by reducing the issues to be taken up on appeal.

Although the Office Action includes at page 7, paragraph 7, a rejection of claim 12, that claim was previously cancelled.

Claim 17 is not anticipated by Hirata (at col. 9, line 37 – col. 11, line 47; FIG. 3a).

Claim 17 reads as follows:

A method of preparing a scanner to scan a photographic film that may be a positive or negative film type, comprising the steps of:
measuring respective color densities of three different color hues, red, green and blue, in the photographic film;
comparing the color densities to a standard range which indicates an orange bias that is high enough to represent a negative film type; and
triggering the scanner to treat the photographic film as a negative type automatically when the color densities are within the standard range and to otherwise treat the photographic film as a positive type automatically when the color densities are not within the standard range.

The Examiner concludes that claim 17 is anticipated by Hirata (at col. 9, line 37 – col. 11, line 47; FIG. 3a). This is believed to be in error at least for the following reasons:

1. Hirata does not disclose the claimed step of *comparing the measured color densities of three different color hues, red, green and blue, in the photographic film to a standard range which indicates an orange bias that is high enough to represent a negative film type*. With respect to this comparing step, the Examiner relies only on col.10, line 32 – col. 11, line 2 and FIG. 4a (see the rejection of claim 1). However, in this connection Hirata states that orange mask adjustments are made **according to** the negative/positive determination of a film (col. 10, lines 32-34). The negative /positive determination in Hirata is made during step 6 in FIG. 2a, which is detailed in FIG. 3a (Hirata, col. 8, lines 37-38, 67-68). Step 6 as indicated in FIG. 2a occurs **before** an orange mask reading

routine (step 9). Accordingly, how can this be a teaching of the comparing step in claim 17? The Examiner is requested to answer this question explicitly, in order to better frame the issue for purposes of an appeal of the rejection.

2. Hirata does not disclose the claimed step of *triggering the scanner to treat the photographic film as a negative type automatically when the measured color densities of three different color hues, red, green and blue, in the photographic film are within the standard range which indicates an orange bias that is high enough to represent a negative film type, and to otherwise treat the photographic film as a positive type automatically when the color densities are not within the standard range.* With respect to this step, the Examiner relies only on col. 11, lines 3-5 and FIG. 3a (see the rejection of claim 1). However, lines 3-5 simply state that in the calculation/hue judgment process (step 6 in FIG. 2a) the negative/positive judgment process is first performed (see the first step in FIG. 3a). No further description of the negative/positive judgment process is offered. Also, as indicated above, step 6 in FIG. 2a (and therefore the first step in FIG. 3a) occur **before** an orange mask reading routine (step 9 in FIG. 2a).

It is recognized that in FIG. 4a of Hirata there are setting alteration steps for positive and negative modes in accordance with a negative/positive judgment, but this is not based on whether *the measured color densities of three different color hues, red, green and blue, in the photographic film are within the standard range which indicates an orange bias that is high enough to represent a negative film type*, as in claim 17. Also, see Hirata, col. 10, line 68 – col.11, line 2.

Accordingly, claim 17 is not anticipated by Hirata.

The Examiner has not responded fully to the Applicant's two arguments in the response to the first Office Action that indicate Hirata (US 5,210,600) does not anticipate original claim 1.

The first argument was that in Hirata there is no description of how the negative/positive judgment process is actually made. All that is stated is that "the negative/positive judgment process is first performed" as a method step. See col. 10, lines 31-34, and col.10, 67-col. 11, line 7. If the Examiner disagrees, she was requested to specifically identify what she believes is a description to the contrary in Hirata. However, the Examiner's reply was simply to say that Hirata "discloses enough information to illustrate that the negative/positive determine action is made by comparing color density on film", and in this connection she refers to FIGS. 2a and 3a-3d, and to col. 9, line 41-col. 10, line 47. This reply is believed to be insufficient, particularly in view of the Applicant's comments regarding the referred to portions of Hirata.

The second argument was that in Hirata the negative/positive judgment process as disclosed does not teach the comparing step in claim 1 (and claim 17) at least for the reasons indicated above. The Applicants were unable to find a response to the second argument in the Final Rejection. Accordingly, for the purpose of clarifying matters for appeal, the Applicants respectfully request some indication as to how the negative/positive judgment process as disclosed in Hirata can be said to teach comparing step of claim 1 and claim 17? This is particularly important in that, as indicated above, FIGS. 2a and 3a-3d, and to col. 9, line 41-col. 10, line 47 of Hirata, do not comprise a teaching of the comparing step.

Claims 7 and 18

Claims 7 and 18 are proposed to be amended to narrow them, in order to place them in better form for appeal by reducing the issues to be taken up on appeal. As amended, they are patentable for the same reasons that claims 1 and 17 are patentable.

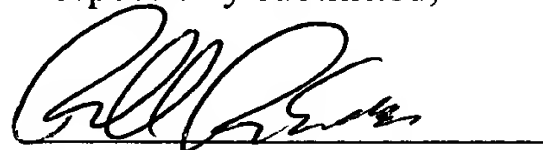
The Dependent Claims

Since the dependent claims further limit features in the claims referenced above, they cannot be anticipated by Hirata at least for the above-provided reasons that the latter claims are not anticipated by Hirata. Thus, the dependent claims should be allowed.

Conclusion

In view of the foregoing comments, it is submitted that the inventions defined by each of claims are patentable, and a favorable reconsideration of this application is therefore requested.

Respectfully submitted,



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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.